

March 2, 2009

Brian Kronsberg
26 Last Street
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Relief; Map 1-14, Block/Plat 45, Card/Lot 87 & 88

Dear Mr. Kronsberg:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on February 4, 2009 for a request for a special use permit pursuant to Article VII, Section 4 and a variance from Article V, Section 2 of the Tiverton Zoning Ordinance (the "Zoning Ordinance") to adjust a lot line between adjoining parcels of land by administrative subdivision, leaving lot 88 with less than required lot area, frontage and width and leaving an existing garage closer to the side yard setback on property located at 26 and 36 Last Street, Tiverton, Rhode Island, at Map 1-14, Block/Plat 45, Card/Lot 87 & 88 (the "Premises") and located in a R30 zoning district.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the Premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and all of the testimony and evidence entered into the record at the public hearing, makes the following findings:

1. That the Premises contain two lots of approximately 8,426 square feet of land area, more or less, each and are zoned R30.
2. That the Premises is comprised of two awkwardly shaped lots with existing building that are closer to the property and that prevent the Premises from being subdivided into fully conforming lots.
3. The petitioner testified that he wished to adjust the existing lot lines between the two adjoining lots to better reflect existing conditions on the ground. The proposal requires a dimensional variance from Article V, Section 2 and a special use permit pursuant to Article VII, Section 4 of the Zoning Ordinance.
4. The petitioner also testified that the proposal would be in keeping with the development in the surrounding area, would not negatively impact any nearby property owners and was the least relief necessary.
5. No objections were raised to the proposal. A letter of no objection was presented from an adjoining neighbor by the petitioners.
6. The petitioners obtained a conditional plan approval from the Planning Board to proceed with the proposed subdivision as designed, subject to obtaining all the necessary relief required by the Board.
7. The Board concurred with the factual statements and opinions of the petitioner, whose information, analysis and conclusions were found credible and are made a part of the record. No objections were presented by any abutters.

Based on the foregoing and after deliberations on the application, the Board voted unanimously to grant the application for the variance, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioners.

- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioners.
- c. The unnecessary hardship, which the petitioners seek to avoid, has not been imposed by any prior action of the petitioners and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioners of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

As to the special use permit, the Board made a motion to approve the sought after relief. After deliberations, the Board voted unanimously to grant the petitioner's application for a special use permit, as follows:

- (1) The public convenience and welfare will be served by allowing the establishment of the Use on the Premises.
- (2) The proposed Use will not be detrimental to the public health, safety, morals or welfare.
- (3) The proposed Use will be compatible with neighboring uses and will not adversely affect the general character of the area.
- (4) The proposed Use will not create a nuisance in the neighborhood, and will not hinder or endanger vehicular or pedestrian movement.
- (5) The requested Use is compatible with the comprehensive community plan of the Town of Tiverton.

This petition is granted by the Board with the following stipulations and conditions:

- 1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
- 2. That the relief is limited to the plans and representations made by the petitioners to the Board. Changes to the approved plan may be made without approval of the Zoning Board of Review if needed to comply with either the building or fire codes.
- 3. This approval shall expire one year from the date of granting of such by the board unless the applicant exercises the permission granted or receives a building permit to do so and commences construction and diligently prosecutes the construction until completed. The board may, upon application thereof, for cause shown and without a public hearing, grant an extension, provided that not more than one such extension for a period of six months be granted.

Present this letter to the Building Inspector when applying for the necessary permits.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review

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